

**REMARKS**

Claims 1 through 25 remain in the application.

Claims 1 through 25 were rejected under 35 U.S.C. § 103 as being unpatentable over Fischer (U.S. Patent No. 6,106,055) in view of Moore (U.S. Patent No. 4,357,734), Bohm et al. (U.S. Patent No. 6,367,872), and Maruyama et al. (U.S. Patent No. 6,419,307). Applicants respectfully traverse this rejection..

As to patentability, 35 U.S.C. § 103 provides that a patent may not be obtained:

If the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Id.

The United States Supreme Court interpreted the standard for 35 U.S.C. § 103 in Graham v. John Deere, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). In Graham, the Court stated that under 35 U.S.C. § 103:

The scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or non-obviousness of the subject matter is determined. 148 U.S.P.Q. at 467.

Using the standard set forth in Graham, the scope and content of the prior art relied upon by the Examiner will be determined.

As to the primary reference relied upon by the Examiner, U.S. Patent No. 6,106,055 to Fischer discloses a grab handle assembly. A portion of an interior of a vehicle passenger compartment 10 defines the environment of a grab handle assembly 12. The interior of the passenger compartment comprises a vehicle roof 14 having a headliner 16 disposed against a metal roof 18. The grab handle assembly 12 is mounted to a roof bracket adjacent a door window

22. The grab handle assembly 12 comprises an elongated handle 24 having a body with an arcuate longitudinal cross section and whose ends terminate in mounting tabs 26. The tab 26 includes a connector comprising an elongated locking lug opening 28. The grab handle assembly 12 further includes a locking clip 30 comprising a spring clip 32 to which is hingedly mounted a retainer comprising a cover 34. The locking clip 30 includes a base 36 having an upper surface 38 from which extends a spring clip 32, which comprises a support arm 42 with a spring finger 44 from which extends a locking tab 46. The junction of the locking tab 46 and the spring finger 44 defines a detent 48. A groove 45 is provided on the support arm 42. A spacer 49 extends from the upper surface 38. Fischer does not disclose a grab handle having ends disposed within a recess of a headliner.

As to the secondary reference relied upon by the Examiner, U.S. Patent No. 4,357,734 to Moore discloses a stand-off mounting system for assist straps. A fastening system 10 is utilized to fasten an assist strap 12 to a panel 14 or other surface of an automobile. The panel 14 has a decorative overlay 16 and a metal plate or backing 18. The panel 14 may also consist of a foam or other material 20 between the overlay 16 and the backing 18. The assist strap 12 has a metal, strength-imparting core of flat strip stock. The core extends the length of the strap 12 and forms ends 22. The end 22 defines a generally flat member having a longitudinally extending top 24. The end 22 is provided with a longitudinally spaced hole 26, which is suitably spaced for alignment with a hole 28 in an anti-rotation member 30 and a nut 32 attached to the backing 18. The hole 28 is adapted to receive a threaded fastener 34 for attaching the end 22 and anti-rotation member 30 to the panel 14. The fastening system 10 also includes a cover 36, which is engageable with the anti-rotation member 30 to completely conceal the anti-rotation member 30, end 22, and fasteners 34. Moore does not disclose a grab handle having ends disposed within a recess of a headliner.

As to the tertiary reference relied upon by the Examiner, U.S. Patent No. 6,367,872 to Bohm et al. discloses a vehicle roof and method for mounting the vehicle roof on a vehicle body. The vehicle roof consists of an outer shell or roof skin 1 formed from a metallic material and an inner shell 2 connected to it in sandwich fashion, which is formed from a foam plastic. The inner shell 2 is divided into two layers in the region of the outer edges provided for mounting on a body frame 4, an upper layer 5 of which is positioned on the body frame 4, while a lower layer 6 protrudes beyond the outer edges of the vehicle roof. The lower layer 6 covers the body frame 4 fully and is provided in its front region with recesses 11 that accept pivotable sun visors 12. FIG. 5 also shows that swivel pivot brackets 20 for support strap 21 in corresponding holes of the lower layer 6 and cover material 3 are snapped into recesses 19 of the lower layer 6. The support strap 21 with its swivel pivot brackets 20 can therefore be preassembled on the vehicle roof. Fastening screws 22 are passed through the swivel pivot bracket 20 and screwed into the body frame 4 in the hand grips 21. Bohm et al. does not disclose a grab handle being non-rotatable with its ends disposed within a recess of a headliner.

As to the fourth reference relied upon by the Examiner, U.S. Patent No. 6,419,307 to Maruyama et al. discloses a component mounting structure and component mounting method. FIGS. 7 to 12 show how an assist grip 3 as a typical small component is temporarily fastened to an automobile head-lining 2 as a typical large component by a clip 1 and how assist grip 3 is temporarily fastened to the head-lining 2 by the clip 1, and how a component mounting structure in which an assist grip 3 and an automobile head-lining 2 are brought into a temporary fastening condition by a clip is permanently fixed to a vehicle body 5. Maruyama et al. does not disclose a grab handle having ends disposed within a recess of a headliner.

In contradistinction, claim 1 claims the present invention as a motor vehicle including a vehicle body and a headliner disposed in an interior of the vehicle body. The

headliner has a surface facing the interior and a recess extending away from the surface toward the vehicle body. The motor vehicle also includes a grab handle having ends disposed in the recess and being non-rotatable. Claims 2 through 25 are similar to claim 1 and include other features of the present invention.

The United States Court of Appeals for the Federal Circuit (CAFC) has stated in determining the propriety of a rejection under 35 U.S.C. § 103, it is well settled that the obviousness of an invention cannot be established by combining the teachings of the prior art absent some teaching, suggestion or incentive supporting the combination. See In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 U.S.P.Q. 929 (Fed. Cir. 1984). The law followed by our court of review and the Board of Patent Appeals and Interferences is that “[a] prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.” In re Rinehart, 531 F.2d 1048, 1051, 189 U.S.P.Q. 143, 147 (C.C.P.A. 1976). See also In re Lalu, 747 F.2d 703, 705, 223 U.S.P.Q. 1257, 1258 (Fed. Cir. 1984) (“In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings would appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification.”)

As to the differences between the prior art and the claims at issue, Fischer ‘055 merely discloses a grab handle assembly in which a vehicle roof has a headliner disposed against a metal roof and the grab handle assembly is mounted to a roof bracket. Fischer ‘055 lacks a grab handle having ends disposed within a recess of a headliner. In Fischer ‘055, the grab handle does not have ends disposed in a recess of a headliner. The Examiner admits on page 3 of the Office

Action that Fischer lacks the grab handle being disposed in a recess of the headliner extending away from the surface toward the vehicle body wherein the ends or end caps of the grab handle are disposed within the recess.

Moore '734 merely discloses a stand-off mounting system for an assist strap, but lacks the assist strap disposed in a recess of a headliner. In Moore '734, there is no recess in the panel 14 for the assist strap 12.

Bohm et al. '872 merely discloses a vehicle roof and method for mounting the vehicle roof on a vehicle body. Bohm et al. '872 lacks a grab handle being non-rotatable with its ends disposed within a recess of a headliner. In Bohm et al. '872, the support strap 21 is rotatably disposed against the inner shell 2. The Examiner speculates on pages 3 and 4 of the Office Action that it would not have been obvious to provide the recess of Bohm et al. '872 within the headliner of Fischer and to provide the end or end caps of the grab handle of Fischer, as modified, within the recess in order to conveniently dispose the handle out of the way to create an aesthetically pleasing appearance within the interior of the vehicle. However, the headliner of Fischer '055 would not allow the grab handle of Moore '734 to have ends disposed within the inner shell of Bohm et al. '872, which is to store a rotatable support strap, and the grab handle assembly of the present invention is used for head impact energy absorption and not to present an aesthetically pleasing appearance. The Examiner may not, because he/she doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 379 F. 2d 1011, 154 U.S.P.Q. 173 (C.C.P.A. 1967).

Maruyama et al. '307 merely discloses a component mounting structure and component mounting method. Maruyama et al. '307 lacks a grab handle having ends disposed

within a recess of a headliner. In Maruyama et al. '307, an assist grip 3 is temporarily fastened to an automobile head-lining 2 by a clip 1, but there is no recess in the lining 2 for the assist grip 3.

There is no suggestion or motivation to combine the references because the headliner of Fischer '055 would not allow the grab handle of Moore '734 to have ends disposed within the inner shell of Bohm et al. '872, which is to store a rotatable support strap. The references are still deficient in that they lack a headliner having a surface facing an interior of a vehicle and a recess extending away from the surface toward the vehicle body with a non-rotatable grab handle having ends disposed within the recess. Once again, the Examiner may not, because he/she doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis.

Even if these references could be combined, neither teaches a headliner having a surface facing an interior of a vehicle and a recess extending away from the surface toward the vehicle body with a non-rotatable grab handle having ends disposed within the recess. Applicants are not attacking the references individually, but are clearly pointing out that each reference is deficient and, if combined (although Applicants maintain that they are not combinable), the combination is deficient. The present invention sets forth a unique and non-obvious combination of a grab handle assembly that offers head impact energy absorption. The references, if combinable, fail to teach or suggest the combination of a motor vehicle including a vehicle body, a headliner disposed in an interior of the vehicle body with the headliner having a surface facing the interior and a recess extending away from the surface toward the vehicle body, and a grab handle having ends disposed in the recess and being non-rotatable as claimed by Applicants. Thus, the Examiner has failed to establish a case of prima facie obviousness. Therefore, it is respectfully submitted that claims 1 through 25 are allowable over the rejection under 35 U.S.C. § 103.

Claims 1 through 25 were rejected under 35 U.S.C. § 103 as being unpatentable over Bohm et al. '873 in view of Moore '734 and Maruyama et al. '307. Applicants respectfully traverse this rejection.

Claim 1 claims the present invention as a motor vehicle including a vehicle body and a headliner disposed in an interior of the vehicle body. The headliner has a surface facing the interior and a recess extending away from the surface toward the vehicle body. The motor vehicle also includes a grab handle having ends disposed in the recess and being non-rotatable. Claims 2 through 25 are similar to claim 1 and include other features of the present invention.

None of the references cited, either alone or in combination with each other, teach or suggest the claimed invention of claims 1 through 25. Specifically, Bohm et al. '872 merely discloses a vehicle roof and method for mounting the vehicle roof on a vehicle body. Bohm et al. '872 lacks a grab handle being non-rotatable with its ends disposed within a recess of a headliner. In Bohm et al. '872, the support strap 21 is rotatably disposed in against the inner shell 2. The Examiner admits on page 5 of the Office Action that Bohm et al. lacks a handle being non-rotatable and having an inner strap and outer cover.

Moore '734 merely discloses a stand-off mounting system for an assist strap, but lacks the assist strap disposed in a recess of a headliner. In Moore '734, there is no recess in the panel 14 for the assist strap 12. The Examiner speculates on page 5 of the Office Action that it would have been obvious to have provided the handle of Moore upon the vehicle of Bohm et al. in place of the rotatable handle of Bohm et al. in order to provide a simpler design of the handle, in order to reduce the number of components of the handle (thereby allowing for faster assembly and installation of the handle in the vehicle), and in order to aid passengers egress from the vehicle. Once again, the Examiner may not, because he/she doubts that the invention is

patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis.

Maruyama et al. '307 merely discloses a component mounting structure and component mounting method. Maruyama et al. '307 lacks a grab handle having ends disposed within a recess of a headliner. In Maruyama et al. '307, an assist grip 3 is temporarily fastened to an automobile head-lining 2 by a clip 1, but there is no recess in the lining 2 for the assist grip 3.

There is no motivation to combine the references because the inner shell of Bohm et al. '872, which is to store a rotatable support strap, would not allow the grab handle of Moore '734 to have ends disposed within the inner shell. The references are still deficient in that they lack a headliner having a surface facing an interior of a vehicle and a recess extending away from the surface toward the vehicle body with a non-rotatable grab handle having ends disposed within the recess.

The present invention sets forth a unique and non-obvious combination of a grab handle assembly that offers head impact energy absorption. The references, if combinable, fail to teach or suggest the combination of a motor vehicle including a vehicle body, a headliner disposed in an interior of the vehicle body with the headliner having a surface facing the interior and a recess extending away from the surface toward the vehicle body, and a grab handle having ends disposed in the recess and being non-rotatable as claimed by Applicants.

The CAFC has held that “[t]he mere fact that prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification”. In re Gordon, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). The Examiner has failed to show how the prior art suggested the desirability of modification to achieve Applicants’ invention. Thus, the Examiner has failed to establish a case of prima facie

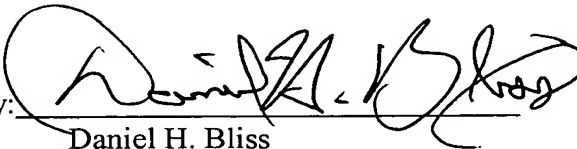


obviousness. Therefore, it is respectfully submitted that claims 1 through 25 are allowable over the rejection under 35 U.S.C. § 103.

Obviousness under § 103 is a legal conclusion based on factual evidence (In re Fine, 837 F.2d 1071, 1073, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988), and the subjective opinion of the Examiner as to what is or is not obvious, without evidence in support thereof, does not suffice. Since the Examiner has not provided a sufficient factual basis, which is supportive of his/her position (see In re Warner, 379 F.2d 1011, 1017, 154 U.S.P.Q. 173, 178 (C.C.P.A. 1967), cert. denied, 389 U.S. 1057 (1968)), the rejections of claims 1 through 25 are improper. Therefore, it is respectfully submitted that claims 1 through 25 are allowable over the rejections under 35 U.S.C. § 103.

Based on the above, it is respectfully submitted that the claims are in a condition for allowance or in better form for appeal. Applicants respectfully request reconsideration of the claims and withdrawal of the final rejection. It is respectfully requested that this Amendment be entered under 37 C.F.R. 1.116.

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Date: October 11, 2009  
Attorney Docket No.: 0693.00289  
Ford Disclosure No.: 199-0325